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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,118	02/10/2004	Shane D. McDonald	65332-001	2117

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EXAMINER	
NEUDER, WILLIAM P	
ART UNIT	**PAPER NUMBER**
3672	

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/708,118	MCDONALD, SHANE D.	
	Examiner	Art Unit	
	William P. Neuder	3672	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 December 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *28-32* is/are allowed.

6)☒ Claim(s) *1,2,5,14,15,17-21,33 and 35* is/are rejected.

7)☒ Claim(s) *3,4,6-13,22-27 and 34* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim 33 is objected to because of the following informalities: In line 2, "recharging the source water body" should be –recharging a source water body--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1,2,5,14,15,17-21,33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent No. 11-229450 in view of Vetrovec et al 2005/0044862 or Radermacher et al 2004/0244398.

The Japanese patent teaches to withdraw water from an aquifer and also to reinject water into the aquifer to replace the withdrawn water. The Japanese patent

teaches all of the claimed limitations except for obtaining the water to be reinjected from condensing water from the atmosphere. Vetrovec teaches condensing water from the atmosphere and then injecting the water into the soil to water plants. Radermacher teaches condensing water from the atmosphere of spring water quality and using the water. It would have been considered obvious to replace the water source used for reinjecting in the Japanese patent with condensed water as taught by Radermacher and Vetrovec since the reinjected water could be obtained from any known water source. As to claims 2 and 35, water injected down well 1 is close to the water extraction well 21 in the Japanese patent. As to claim 5, a portion of the well is cased. As to claims 14,15 and 21, the withdrawn water is from a drilled well 21. As to claims 17-19, the exact amount of water placed back into the well would have been considered an obvious design choice that can be arrived at by routine experimentation. As to claim 20, well 1 is an injection structure and well 21 an extraction structure.

Allowable Subject Matter

Claims 3,4,6-13,16,22-27 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 28-32 are allowed.

Response to Arguments

Applicant's arguments filed 12/23/05 have been fully considered but they are not persuasive. Applicant argues that it would not be obvious to substitute the water source

of Vetrovec or Radermacher for the water source of the Japanese patent. Applicant supports this by stating that Vetrovec and Radermacher as well as all other known devices used to condense water from air uses or consumes the water directly. This is not understood in that applicant's invention uses the condensed water directly. The condensed water is immediately placed into the reinjection source. Specifically, Vetrovec places the condensed water into the soil as it is produced in the same manner in that applicant places the condensed water produced into the reinjection well immediately. Further applicant argues that his system provides a time-integrated system to avoid depletion of the aquifer. The Japanese patent teaches a time-integrated system to avoid depletion of the aquifer. It is still believed obvious to replace the reinjection water source of the Japanese patent with an atmospheric water source as taught by Vetrovec and Radermacher.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Neuder whose telephone number is 571-272-7032. The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William P Neuder
Primary Examiner
Art Unit 3672

W.P.N.